



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

March 4, 2022

BY ECF

Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

**Re: *United States v. Joshua Adam Schulte*,
S3 17 Cr. 548 (JMF)**

Dear Judge Furman:

The Government respectfully submits this letter to provide comments to the Court's Draft Amended Protective Order pursuant to the Classified Information Procedures Act ("CIPA") (the "Draft CIPA Order") (D.E.713).

First, with respect to classified filings (Draft CIPA Order ¶¶ 22 & 23), the Government proposes to address the appropriateness of courtesy electronic copies of classified filings on CD or DVD in the context of a CIPA § 2 conference.

Second, with respect to the defendant's use of the telephone in the courthouse SCIF (Draft CIPA Order ¶ 35), the proposed order omits the Government's proposed restriction of the use of the phone to calls with standby counsel or the Government. As the Court is aware, the defendant is subject to Special Administrative Measures ("SAMs"), ordered by the Attorney General and implemented by the Bureau of Prisons, based on the defendant's violations of court orders and dissemination and attempted dissemination of classified information, including through the use of contraband prison cellphones and encrypted and anonymized email and social media accounts. (*See generally* D.E. 127, 527). The SAMs, among other things, restrict the defendant's telephone communications to his attorneys and his immediate family members. (D.E. 127 at 6).¹ The defendant's family calls are subject to contemporaneous monitoring and recording. (*Id.*). The defendant's access to a telephone in the SCIF should not be a mechanism for him to avoid the SAMs limitations, monitoring, and recording requirements. Accordingly, the Government requests that the defendant's use of the telephone in the SCIF be limited to calls that are not subject to

¹ The Court ordered that the defendant also be permitted to have family calls with non-immediate family members (D.E. 127 at 11-12), though the Government is not aware of the defendant ever requesting a call with a non-immediate family member.

prohibition, monitoring, or recording under the SAMs: the inmate's attorneys and precleared staff and duly authorized federal authorities when acting in connection with their official duties (including counsel for the Government).

Respectfully submitted,

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cc: Standby Counsel (by ECF)
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